IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.394 OF 2005
IN
EXECUTION APPLICATION NO.7 OF 2003
IN
ARBITRATION AWARD DATED 12.9.2000

Kotak Mahindra Bank Ltd. ...Claimant.
Vs.
Elbee Airlines Ltd. and ors. ...Respondents.
And
ICICI Bank Ltd. ...Applicant.

Mr. Virag Tulzapurkar i/by M.K. Ambalal & Co. for the Applicant.

Mr. Birendra Saraf i/by Kartikeyan & Associates for the Claimant.

Mr. M.U. Pandey for the Respondent No.2.

CORAM : A.M. KHANWILKAR, J.
DATED : 5TH JULY, 2005

P.C.:

1. Not on board. Upon mentioning taken on board.

2. Heard counsel for the parties. It is stated that the properties mentioned in Item Nos. 1 and 2 at Exh.K/2 to the affidavit in support of accompanying Chamber Summons No.1392 of 2004 have been mortgaged in favour of the applicant herein namely ICICI Bank Ltd. and other banks as back as in 1997. If it is so, the rights of the mortgagee

in relation to the said properties available under law can be availed by the applicant, if so advised. Ad interim order passed by this court on 11.10.2004 will have to be understood accordingly. In other words, it will be open to the applicant to deal with the said properties in accordance with law after giving advance notice to the claimant in that behalf. With this clarification, no other issue is required to be considered in this application. Chamber summons is accordingly disposed of on the above terms. No order as to costs.

(A.M. KHANWILKAR,J.)